

## Department of Homeland Security

## § 341.1

the reports as a monthly billing document, submitted to USCIS for reimbursement in accordance with section 344(f)(1) of the Act. USCIS will use the information submitted to calculate costs incurred by courts in performing their naturalization functions. State and federal courts will be reimbursed pursuant to terms set forth in annual agreements entered into between DHS and the Administrative Office of United States Courts.

[76 FR 53804, Aug. 29, 2011]

### § 339.3 Relinquishment of naturalization jurisdiction.

Whenever a court relinquishes naturalization jurisdiction, the clerk of court shall, within ten days following the date of relinquishment, furnish the district director having administrative jurisdiction over the place in which the court is located, a certified copy of the order of court relinquishing jurisdiction. A representative of the Service shall thereafter examine the naturalization records in the office of the clerk of court and shall bind and lock them. The clerk of court shall return all unused forms and blank certificates of naturalization to the district director with his monthly report on Form N-4.

[22 FR 9825, Dec. 6, 1957]

### § 339.4 Binding of naturalization records.

Whenever a volume of petitions for naturalization, applications to take the oath of allegiance, declarations of intention, orders of court, or other documents affecting or relating to the naturalization of persons is completed, it shall be bound and locked by the clerk of court.

[22 FR 9825, Dec. 6, 1957]

### § 339.5 Recordkeeping.

The maintenance of records and submission of reports under this chapter may be accomplished by either electronic or paper means.

[56 FR 50502, Oct. 7, 1991]

## PART 340—REVOCATION OF NATURALIZATION

Sec.

340.1 [Reserved]

340.2 Revocation proceedings pursuant to section 340(a) of the Act.

AUTHORITY: 8 U.S.C. 1103, 1443.

### § 340.1 [Reserved]

### § 340.2 Revocation proceedings pursuant to section 340(a) of the Act.

(a) *Recommendations for institution of revocation proceedings.* Whenever it appears that any grant of naturalization may have been illegally procured or procured by concealment of a material fact or by willful misrepresentation, and a prima facie case exists for revocation pursuant to section 340(a) of the Act, USCIS will make a recommendation regarding revocation.

(b) *Recommendation for criminal prosecution.* If it appears to USCIS that a case described in paragraph (a) of this section is amenable to criminal penalties under 18 U.S.C. 1425 for unlawful procurement of citizenship or naturalization, the facts will be reported to the appropriate United States Attorney for possible criminal prosecution.

[76 FR 53804, Aug. 29, 2011]

## PART 341—CERTIFICATES OF CITIZENSHIP

Sec.

341.1 Application.

341.2 Examination upon application.

341.3 Depositions.

341.4 Surrender of immigration documents.

341.5 Decision.

AUTHORITY: Pub. L. 82-414, 66 Stat. 173, 238, 254, 264, as amended; 8 U.S.C. 1103, 1409(c), 1443, 1444, 1448, 1452, 1455; 8 CFR part 2.

SOURCE: 30 FR 5472, Apr. 16, 1965, unless otherwise noted.

### § 341.1 Application.

An application for a certificate of citizenship by or in behalf of a person who claims to have acquired United States citizenship under section 309(c) of the Act or to have acquired or derived United States citizenship as specified in section 341 of the Act must be submitted on the form designated by USCIS with the fee specified in 8 CFR

## § 341.2

## 8 CFR Ch. I (1–1–16 Edition)

103.7(b)(1) and in accordance with the instructions on the form.

[76 FR 53804, Aug. 29, 2011]

### § 341.2 Examination upon application.

(a) *Personal appearance of applicant and parent or guardian*—(1) *When testimony may be omitted.* An application may be processed without interview if the USCIS officer adjudicating the case has in the administrative file(s) all the required documentation necessary to establish the applicant's eligibility for U.S. citizenship, or if the application is accompanied by one of the following:

(i) A Department of State Form FS-240 (Report of Birth Abroad of a Citizen of the United States);

(ii) An unexpired United States passport issued initially for a full five/ten-year period to the applicant as a citizen of the United States, or

(iii) The applicant's parent(s)' naturalization certificate(s).

(2) *Testimony required.* Each applicant, when notified to do so, shall appear in person before an officer for examination under oath or affirmation upon the application. A person under 18 years of age must have a parent or guardian apply, appear, and testify for the applicant, unless one is unavailable and the district director is satisfied that the applicant is old enough to provide reliable testimony. The same rule will apply for incompetent applicants. At the examination the applicant and the acting parent or guardian, if necessary, shall present testimony and evidence pertinent to the claim to citizenship and shall have the right to review and rebut any adverse evidence on file, and to cross-examine witnesses called by the Government.

(b) *Witness*—(1) *Personal appearance.* A witness shall be called to testify under oath or affirmation at the discretion of USCIS only if that person's testimony is needed to prove a particular point, and only if alternative proof is unavailable or more difficult to produce than is the witness.

(2) *Substitution and waiver.* When testimony is deemed necessary by the district director and the presentation of the person or persons through whom citizenship is claimed is precluded by reason of death, refusal to testify, unknown whereabouts, advanced age,

mental or physical incapacity, or severe illness or infirmity, another witness or witnesses shall be produced. A substitute witness also may be produced in lieu of such person if such person is a member of the United States Armed Forces serving outside the United States in an area where his testimony could not be taken without imposing extreme hardship upon him, or without unduly delaying action on the application, and no issue is present which can be resolved only by this testimony.

(c) *Proof.* The burden of proof shall be upon the claimant, or his parent or guardian if one is acting in his behalf, to establish the claimed citizenship by a preponderance of the evidence.

(d) *Assignment and authority of officer.* USCIS will conduct the examination provided for in paragraphs (a) and (b) of this section. The assigned officer shall have authority to administer oaths or affirmations; to present and receive evidence; to rule upon offers of proof; to take or cause to be taken depositions or interrogatories; to regulate the course of the examination; to examine and cross-examine all witnesses appearing in the proceedings; to grant or order continuances; to consider and rule upon objections to the introduction of evidence; to make a report and recommendation as to whether the application shall be granted or denied, and to take such other action as may be appropriate to the conduct of the examination and the disposition of the application.

(e) *Conduct of examination.* The assigned officer shall, at the commencement of the examination of the claimant or the acting parent or guardian, advise them of their rights as set forth in paragraphs (a) and (f) of this section, and shall interrogate them under oath or affirmation with regard to each assertion made in the application and any other matter pertinent to the claim to citizenship; in addition, when a witness is deemed necessary, he shall interrogate each witness with regard to pertinent matters within the personal knowledge of the witness, such as the relationship between the claimant and the citizen source or sources; the citizenship of the latter, and any possible expatriatory acts performed by the

claimant and the citizen source or sources. He may, in his discretion, have a transcript made of the testimony. At the conclusion of the examination of the claimant or the acting parent or guardian, all corrections made on the applications form shall be consecutively numbered and recorded in the space provided therefor in the form. The affidavit shall then be signed and sworn to or affirmed by the claimant or the acting parent or guardian; and the remainder of the affidavit completed and signed by the assigned officer.

(f) *Representation during proceedings.* The claimant shall have the right to representation during the proceedings, as provided in part 292 of this chapter, and such representative shall have the right to examine and cross-examine witnesses appearing in the proceedings; to introduce evidence; to object to the introduction of evidence, which objections shall be stated succinctly and entered on the record, and to submit briefs. If the claimant is not represented by an attorney or representative, the assigned officer shall assist him in the introduction of all evidence available in his behalf.

[30 FR 5472, Apr. 16, 1965; 30 FR 5621, Apr. 21, 1965, as amended at 32 FR 6260, Apr. 21, 1967; 45 FR 84011, Dec. 22, 1980; 51 FR 35629, Oct. 7, 1986; 66 FR 32147, June 13, 2001; 76 FR 53804, Aug. 29, 2011]

### § 341.3 Depositions.

If satisfied that a witness whose testimony is essential is not available for examination in the United States, the assigned officer may authorize the taking of a deposition abroad by written interrogatories before a DHS or Department of State official.

[30 FR 5472, Apr. 16, 1965, as amended at 76 FR 53804, Aug. 29, 2011]

### § 341.4 Surrender of immigration documents.

Each claimant shall surrender any immigration identification and permanent resident cards in his or her possession.

[30 FR 5472, Apr. 16, 1965, as amended at 63 FR 70316, Dec. 21, 1998]

### § 341.5 Decision.

(a) *Adjudication.* USCIS may adjudicate the application only after the appropriate approving official has reviewed the report, findings, recommendation, and endorsement of the USCIS officer assigned to adjudicate the application.

(b) *Approval.* If the application is granted, USCIS will prepare a certificate of citizenship and, unless the claimant is unable by reason of mental incapacity or young age to understand the meaning of the oath, he or she must take and subscribe to the oath of renunciation and allegiance prescribed by 8 CFR 337 before USCIS within the United States. Except as provided in paragraph (c), delivery of the certificate in accordance with 8 CFR 103.2(b)(19) and 8 CFR 103.8 must be made in the United States to the claimant or the acting parent or guardian.

(c) *Approval pursuant to section 322(d) of the Act.* Persons eligible for naturalization pursuant to section 322(d) of the Act may subscribe to the oath of renunciation and allegiance and may be issued a certificate of citizenship outside of the United States, in accordance with 8 U.S.C. 1443a.

(d) *Denial.* If USCIS denies the application, the applicant will be furnished the reasons for denial and advised of the right to appeal in accordance with 8 CFR 103.3.

(e) *Subsequent application.* After an application for a certificate of citizenship has been denied and the time for appeal has expired, USCIS will reject a subsequent application submitted by the same individual and the applicant will be instructed to submit a motion to reopen or reconsider in accordance with 8 CFR 103.5. The motion must be accompanied by the rejected application and the fee specified in 8 CFR 103.7.

[76 FR 53804, Aug. 29, 2011]

## PART 342—ADMINISTRATIVE CANCELLATION OF CERTIFICATES, DOCUMENTS, OR RECORDS

Sec.

342.1 Notice.

342.2 Service of notice.